

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

V.

CLOIS GLENN RABORN

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NO. 4:22-CR-00066-O

DEFENDANT'S UNOPPOSED MOTION TO CONTINUE SENTENCING

TO THE HONORABLE REED O'CONNOR,
DISTRICT JUDGE, NORTHERN DISTRICT OF TEXAS:

COMES NOW, Clois Glenn Raborn (Defendant), by and through his attorney of record, Cody L. Cofer (Counsel), and files this motion to continue sentencing. Defendant moves the Court to continue the sentencing hearing currently scheduled for July 15, 2022 and extend the deadline for sentencing motions and materials. **Counsel requests a continuance and extension of at least 60 days.** As grounds for continuance and in support thereof, Defendant would show the Court:

1. The Court has scheduled sentencing for July 15, 2022 (ECF 27).
2. The Government does not oppose a 60-day continuance. The Government does oppose a continuance more than 60 days.
3. Based on the current scheduling order, Counsel cannot effectively prepare nor effectively advocate for Defendant (despite exercising due diligence) at the final sentencing hearing, because Counsel has been unable to draft appropriate sentencing pleadings and collect sentencing information within the time set forth in the scheduling order. Counsel moves for a continuance

to ensure effective representation of Defendant and to serve judicial economy.

4. Granting this motion shall serve the ends of justice. Granting this motion does not prejudice the defendant's or public interest in a speedy trial (to the extent the right applies to sentencing proceedings). Any prejudice to defendant's or public interest in a speedy trial is outweighed by the ends of justice served. Granting this motion will not likely make continuation of such proceedings impossible or result in the miscarriage of justice.
5. Outstanding work that must be performed includes the review of digital evidence related to a sentencing enhancement. This evidence may only be viewed "in-house" with the Department of Homeland Security (Secret Service) in Dallas. Further, despite Counsel's efforts to facilitate and expedite expert services for the defense, a defense expert has not yet met with defendant. These matters are essential for effective representation at final sentencing.
6. Counsel's past schedule and obligations support his motion:
 - a. Counsel has been preparing for trial in case 1645404R, 1645409R, *State of Texas v. Lee Robin*, scheduled for May 26, 2022, before the Honorable Judge Mollee Westfall. The case was resolved by agreement on May 11, 2022. Prior to May 11, practically every available moment in the preceding weeks had been spent reviewing the voluminous discovery, investigating, or otherwise preparing for trial.

- b. Counsel has had other conflicts inhibiting preparation for Defendant's sentencing. These obligations include:
- c. Counsel is a partner in a small firm. On May 18, 2022, one of the partners suffered an injury to his Achilles' tendon requiring him to be taken to the emergency room. It is an acute injury requiring emergent intervention. Counsel's partner underwent surgery for the injury on May 26, 2022. Counsel and one of his partners will have to attend to all the business of the firm during the time he recovers;
- d. On March 28, 2022, Counsel appeared for a motion for pretrial release hearing in case 4:22-CR-093-P, *United States of America v. Christopher Anderson*, before the Honorable Judge Hal R. Ray, Northern District of Texas, Fort Worth Division;
- e. On April 7, 2022, Counsel was lead counsel at the final sentencing hearing in case 4:21-CR-00303-O, *United States of America v. Leonardo Cruz*, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division;
- f. On April 14, 2022, Counsel appeared for a final revocation hearing in case 4:15-CR-00183-Y-1, *United States of America v. Lacie Whisenant*, before the Honorable Judge Terry R. Means, Northern District of Texas, Fort Worth Division;

- g. On April 19, 2022, Counsel filed an *Anders* brief in cases 02-21-00184-CR, 02-21-00185-CR, 02-21-00186-CR, 02-21-00187-CR, *State of Texas v. Paul Hill*, in the Second Court of Appeals of Texas;
 - h. On May 26, 2022, Counsel appeared for the final sentencing hearing in case 4:21-CR-00305-P, *United States of America v. Jason Coca*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;
 - i. In the month of May, Counsel was newly appointed as the CJA attorney in the following cases:
 - 4:22-CR-00141-O, *United States of America v. Michael Colson*;
 - 4:20-CR-00269-Y, *United States of America v. Eric Prescott Kay*;
 - and
 - 7:22-CR-00141-O, *United States of America v. Anthony Anderson*;
 - and
 - 22-10455, *United States of America v. Steven Jalloul*.
7. Defendant moves the Court to continue the sentencing hearing until such time as Counsel can be present and properly prepared.

Future Conflicts

8. Counsel for Defendant has the following upcoming conflicts:
 - a. On June 13, 2022, Counsel has an initial brief deadline in case 22-10224, *United States of America v. Pedro Rodriguez*, in the United States Court of Appeals for the Fifth Circuit.;

- b. On June 27, 2022, Counsel is scheduled for trial in case in cases F17-46006, F17-45745, F17-46007, F17-45746, F17-45765, F19-45244, *State of Texas v. Junaid Younus Farooqui*, before the Honorable Judge Amber Givens, in the 282nd District Court of Dallas County.
- c. From June 14-18, 2022, Counsel has the annual continuing education seminar Rusty Duncan scheduled;
- d. On June 20, 2022, Counsel has an initial brief deadline in case 07-22-00113-CR, *State of Texas v. Seth Herring*, in the Seventh Court of Appeals of Texas;
- e. On June 27, 2022, Counsel is scheduled for Jury Trial in case 4:22-CR-141-O, *United States of America v. Michael Colson*, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division. However, Counsel has filed a motion for continuance and expects the case to resolve by agreement;
- f. On June 27, 2022, Counsel is scheduled for jury trial in case 7:22-CR-011-O, *United States of America v. Anthony Anderson*, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division. However, Counsel expects the case to resolve by agreement;
- g. From July 4-11, 2022, Counsel has family vacation scheduled.
- h. On July 11, 2022, Counsel is scheduled for jury trial in case 1:21-CR-00112-MAC-ZJH-6, *United Sates of America v. Willis Reed*, before

the Honorable Marcia A. Crone, Eastern District of Texas, Beaumont Division. Counsel expects to file a motion to continue this trial;

- i. On July 21, 2022, Counsel is scheduled for the final sentencing hearing in case 4:21-CR-00051-P, *United States of America v. Charles Roberson*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;
- j. On July 25, 2022, Counsel is scheduled for jury trial in case 4:22-CR-093-P, *United States of America v. Christopher Anderson*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division. However, Counsel expects this matter to be resolved by agreement;
- k. On August 16, 2022, Counsel is scheduled for the final sentencing hearing in case 4:20-R-00034-Y, *United States of America v. Paulette Salvant*, before the Honorable Judge Terry R. Means, Northern District of Texas, Fort Worth Division;
- l. From August 17-18, 2022, Counsel will be out of the office;
- m. On September 7, 2022, Counsel is scheduled to begin jury trial in the Eastern District of Oklahoma (Muskogee) in case 6:21-CR-00371-RAW, *United States of America v. Dustin Hayes*, before the Honorable Ronald White;
- n. On October 24, 2022, Counsel is scheduled to begin jury trial in the Eastern District of Oklahoma (Muskogee) in case 21-CR-151-TDD,

United States of America v. Billy James Menees, before the Honorable Timothy D. DeGiusti. Mr. Menees is charged with *Child Abuse in Indian Country* (18 U.S.C. § 1151) and *Child Neglect in Indian Country* (18 U.S.C. § 1151).

The attorney for the Government requests the Court consider these conflicts and circumstances in scheduling the sentencing hearing:

- a. One August 7-15, 2022, the victim's family will be out of the country;
- b. On August 19, 2022, the lead detective is unavailable;
- c. On August 25, 2022, the attorney for the Government has a sentencing before Judge Pittman;
- d. On September 20, 2022, the attorney for the Government has a sentencing before Judge Means; and
- e. On September 22, 2022, the attorney for the Government has a sentencing before Judge Pittman.

WHEREFORE PREMISES CONSIDERED, Defendant prays that in the above referenced and entitled cause, the Court continue the sentencing.

Respectfully submitted,

/s/ Cody L. Cofer

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Attorney for Defendant

CERTIFICATE OF CONFERENCE

I hereby certify that on June 3, 2022, I conferred with the attorney for the Government. The Government does not object to this motion.

/s/Cody L. Cofer
Cody L. Cofer
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorney for the Government.

/s/ Cody L. Cofer
Cody L. Cofer
Attorney for Defendant